

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

DERRICK L. GALLOWAY,

Petitioner,

v.

CIVIL ACTION NO. 5:13-cv-23678

JOE COAKLEY,

Respondent.

MEMORANDUM OPINION AND ORDER

On September 25, 2013, the Petitioner filed a *Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241* (Document 2). By *Standing Order* (Document 4) entered on October 1, 2013, this action was referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636.

On July 19, 2016, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 19) wherein it is recommended that this Court deny the Petitioner's § 2241 petition and dismiss this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by August 5, 2016.


Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or

recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*. The Court **FINDS** that the Petitioner has failed to demonstrate that § 2255 is inadequate or ineffective to test the legality of his detention and, accordingly, his claims are not proper for consideration under § 2241, and this Court lacks jurisdiction to review the Petitioner's claims contained in his § 2241 petition. For these reasons, the Court **ORDERS** that the Petitioner's *Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241* (Document 2) be **DENIED** and that this matter be **DISMISSED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Tinsley, counsel of record, and any unrepresented party.

ENTER: August 10, 2016


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA